IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

Rajasthan State Road Transport Corporation
Vs.
State Transport Appellate Tribunal & Others

(S.B. Civil Writ Petition No.6140/2003)

DATE OF ORDER : May 07, 2007

P R E S E N T

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Sangeet Lodha for the petitioner.
Mr. Ashok Upadhyay, Addl. G.A.
Mr. B.L. Maheshwari for the respondents.

BY THE COURT :

This writ petition has been filed by the Rajasthan State Road Transport Corporation (hereinafter, to be called "the Corporation") challenging the order passed by the State Transport Appellate Tribunal, Rajasthan, Jaipur (hereinafter, "the Tribunal") dated 15.10.2003 (Annex.-4) and for restoring the resolution of the Regional Transport Authority dated 21.03.2002 whereby the RTA, after coming into force of the agreement dated 18.07.2001, fixed the route in question reserved for the Corporation, therefore, the Corporation applied for grant of 4 permits to operate 8 single trips to the RTA,

Chittorgarh. After considering the matter in its entirety the RTA was pleased to grant 4 permits to operate 8 single trips in favour of the Corporation vide resolution dated 21.03.2002 for Chambal Dam-Begun route.

Respondents No.3 and 4 preferred a revision petition against the said resolution dated 21.03.2002 before the Tribunal after lapse of more than one year. Alongwith the revision petition an application for condonation of delay was also filed. Finally, the Tribunal allowed the revision petition vide judgment dated 15.10.2003 and the permits granted in favour of the Corporation have been set aside.

Learned counsel for the Corporation argued that the judgment passed by the Tribunal is erroneous because the learned Tribunal has not examined the factual and legal position, therefore, the order is illegal and may be quashed. It is further argued that the agreement entered in between the State of Rajasthan and State of Madhya Pradesh supersedes all earlier agreements entered into between the parties and the route for private operators and State Transport Corporation have been separately classified in Annexures - A and B, respectively. It is further submitted that according to agreement the permits were to be allotted to the nominee of the State of Rajasthan upon route in question and there was no occasion for the Tribunal to interfere with the resolution dated 21.03.2002. Learned counsel for the petitioner also invited attention of this Court towards Clause 4(v) of the agreement dated 18.07.2002 in which the permits counter-signed prior to the agreement shall be valid till the validity fixed therein, therefore, the permits granted earlier were to continue till the expiry of the same after coming into force of the new agreement. But,

this condition cannot restrict the rights of the Corporation for obtaining the permits in respect of routes reserved for the Corporation as the terms of the agreement. It is, therefore, prayed that the Tribunal has committed an error apparent while holding that there was no vacancy available on the route in question, therefore, no permit can be granted by the RTA in favour of the Corporation. Learned counsel for the Corporation prayed for quashing order Annex.-4.

On the other hand, learned counsel for respondents No.3 and 4 while filing reply to the writ petition contended that the impugned Chambal Dam – Begun route was non-notified route; but, by mistake it was shown to be notified route and now this mistake has been rectified by induction of supplementary agreement dated 17.07.2003 of the two States which was published in Rashtra Rang and it was agreed to transfer the impugned route mentioned at S.No.11 Chambal Dam – Begun via Ratangarh from Annex.-B to A. He has placed on record copy of the Rajasthan Gazette dated 17.07.2003 and prayed that writ petition may be dismissed as having become infructuous. It is also prayed that after issuance of the notification dated 17.07.2003 and 24.12.2003 it will be deemed that these notifications are having effect from the date of issuance of the earlier notification dated 18.07.2001 because vide notification dated 17.07.2003 only mistake was sought to be rectified. It is, therefore, contended that now the writ petition has become infructuous.

The learned counsel for the State supported the arguments advanced by learned counsel for the respondents No.3 and 4. It is also submitted that the permits earlier granted to the private

respondents have further been renewed for a period of five years expiring in 2011. He also contends that these subsequent events resulting in issuance of the notification with regard to the supplementary reciprocal agreement whereby the impugned route was again placed in non-notified list show that the ground for which the petition was filed has lost its efficacy and by virtue of the supplementary reciprocal agreement in respect of the route in question the reserved rights of the RSRTC to ply its buses is taken away.

I have considered the rival submissions.

It is apparent from the record that the order impugned was passed by the Tribunal on 15.10.2003 and as per reply of the respondents the supplementary agreement was signed between the governments of Rajasthan and Madhya Pradesh on 17.03.2003 whereby the subject route Chambal Dam - Begun was again put in the non-notified route. If it is so, obviously the agreement which had come into force prior to the decision of the Tribunal was not considered by the Tribunal and the matter was decided by the Tribunal without taking into account the fact of supplementary reciprocal agreement entered into in between the Government of Rajasthan and Government of Madhya Pradesh, therefore, the judgment of the Tribunal dated 15.10.2003 was passed without considering the subsequent facts.

For the reasons indicated above, the impugned order dated 15.10.2003 is set aside and the matter is remitted to the Tribunal for deciding the case afresh after taking into consideration the supplementary agreement which is said to be issued on 17.07.2003

(Annex.-R/3-4/1 prior to passing of the impugned order dated 15.10.2003 and subsequent events, within a period of three months.

The writ petition is accordingly disposed of.

(Gopal Krishan Vyas) J.